

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION

APPLETON PAPERS, INC., and
NCR CORPORATION,

Plaintiffs,

vs.

Case No. 2:08-CV-00016-WCG

GEORGE A. WHITING PAPER COMPANY, et al.,

Defendants.

Deposition of TOM VAN DEURZEN

Thursday, March 12th, 2009

9:01 a.m.

at

DAVIS & KUELTHAU, S.C.
318 South Washington Street
Green Bay, Wisconsin

Reported by Rosanne E. Pezze, RPR/CRR

Deposition of Tom Van Deurzen, 3/12/2009

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<p>1 Deposition of TOM VAN DEURZEN, a witness in 2 the above-entitled action, taken at the instance of 3 the Plaintiffs, pursuant to the Federal Rules of 4 Civil Procedure, pursuant to Notice, before Rosanne 5 E. Pezze, RPR/CRR and Notary Public, State of 6 Wisconsin, at 318 South Washington Street, Green Bay, 7 Wisconsin, on the 12th day of March, 2009, commencing 8 at 9:01 a.m. and concluding at 11:07 a.m. 9 A P P E A R A N C E S: 10 SIDLEY AUSTIN, LLP, by 11 Mr. Eric W. Ha 12 One South Dearborn Street 13 Chicago, Illinois 60603 14 Appeared on behalf of Plaintiff NCR 15 Corporation. 16 HERMES LAW, LTD., by 17 Mr. Anthony J. Steffek 18 333 Main Street, Suite 601 19 Green Bay, Wisconsin 54301 20 Appeared on behalf of Plaintiff Appleton 21 Papers, Inc. 22 REINHART BOERNER VAN DEUREN, S.C., by 23 Mr. Steven P. Bogart 24 1000 North Water Street, Suite 1700 25 Milwaukee, Wisconsin 53202 -and- HAYNSWORTH SINKLER BOYD, P.A., by Mr. Thomas R. Gottshall 1201 Main Street, Suite 2200 Columbia, SC 29201 Appeared by phone on behalf of the Defendant U.S. Paper Mills. BALLARD SPAHR ANDREWS & INGERSOLL, LLP, by Mr. Caleb J. Holmes 1735 Market Street, 51st Floor Philadelphia, Pennsylvania 19103-7599 Appeared on behalf of Defendant P.H.</p>	<p>1 UNITED STATES DEPARTMENT OF JUSTICE 2 ENVIRONMENTAL & NATURAL RESOURCES DIVISION. 3 by 4 Mr. Matthew Oakes 5 P.O. Box 23986 6 Washington, DC 20026-3986 7 Appeared by phone on behalf of the United 8 States Army Corps of Engineers and 9 Third-Party Defendant United States of 10 America. 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: center;">I N D E X</p> <p>EXAMINATION PAGE By Mr. Ha. 5, 94 By Mr. Steffek. 83, 95 By Mr. Yde. 96</p> <p style="text-align: center;">E X H I B I T S</p> <p>EXHIBIT NO. PAGE NUMBER</p> <p>(There were no exhibits marked.)</p>
Page 3	Page 5
<p>1 QUARLES & BRADY LLP, by 2 Mr. William H. Harbeck 3 411 East Wisconsin Avenue, Suite 2040 4 Milwaukee, Wisconsin 53202 5 Appeared on behalf of Defendant WTM I 6 Company. 7 JOHNSON & BELL, LTD., by 8 Mr. Daniel C. Murray 9 33 West Monroe Street, Suite 2700 10 Chicago, Illinois 60603-5404 11 Appeared by phone on behalf of Defendant 12 NewPage Wisconsin System, Inc. 13 von BRIESEN & ROPER, S.C., by 14 Ms. Kelly Noyes 15 411 East Wisconsin Avenue, Suite 700 16 Milwaukee, Wisconsin 53202-4427 17 Appeared by phone on behalf of Defendant 18 CBC Coating, Inc. 19 LATHAM & WATKINS, LLP, by 20 Ms. Margrethe Kearney 21 233 South Wacker Drive, Suite 5800 22 Chicago, Illinois 60606 23 Appeared by phone on behalf of Defendants 24 Georgia-Pacific Consumer Products LP, 25 Georgia-Pacific LLC, Fort James Operating Company and Fort James Corporation. STAFFORD ROSENBAUM, LLP, by Mr. Richard C. Yde 222 West Washington Avenue, Suite 900 P.O. Box 1784 Madison, Wisconsin 53701-1784 Appeared on behalf of Defendant the City of DePere. HUNSUCKER GOODSTEIN & NELSON, PC, by Mr. Erik S. Mroz 21800 Oxnard Street, Suite 780 Woodland Hills, California 91367 Appeared on behalf of Defendant Menasha Corporation.</p>	<p>1 TRANSCRIPT OF PROCEEDINGS 2 TOM VAN DEURZEN, having been first duly 3 sworn on oath, was examined and testified as follows: 4 E X A M I N A T I O N 5 BY MR. HA: 6 Q Good morning, Mr. Van Deurzen. 7 A Good morning. 8 Q Would you state your full name for the record and 9 spell your last name, please. 10 A Tom Van Deurzen, V-A-N-D-E-U-R-Z-E-N. 11 Q Thank you. What's your current address? 12 A 1838 Partridge Road, De Pere. 13 Q How long have you been at that address? 14 A Thirteen years. 15 Q Do you have any plans to move from that address in 16 the near future? 17 A No. 18 Q And do you live at that address year-round? 19 A Yes. 20 Q Have you ever been deposed before? 21 A Yes. 22 Q How many times? 23 A Twice. 24 Q When was the first time? 25 A I don't recall. In the '70s.</p>

2 (Pages 2 to 5)

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<p>1 could be used for anything else other than making</p> <p>2 cores?</p> <p>3 A I don't know.</p> <p>4 Q Okay. So you don't know if those -- if the stock</p> <p>5 that was made at the mill could have been used to</p> <p>6 make cans, for example?</p> <p>7 A I don't know.</p> <p>8 Q Or any other types of food packaging materials?</p> <p>9 A I don't know.</p> <p>10 Q Do you recall who U.S. Paper's customers for the</p> <p>11 paperboard stock were?</p> <p>12 A Back in the '70s, American Can, Fort Howard, Pulp &</p> <p>13 Talbot, Wisconsin Tissue. That's what I recall.</p> <p>14 Q Do you recall Malt-O-Meal Company being a customer?</p> <p>15 A No.</p> <p>16 Q What about A. Sturm & Son?</p> <p>17 A Yes.</p> <p>18 Q What about Westvaco?</p> <p>19 A No.</p> <p>20 Q International Paper?</p> <p>21 A I do not recall International Paper back then, but</p> <p>22 currently there's International Paper.</p> <p>23 Q Do you recall any other paper mills that were located</p> <p>24 on the Fox River being customers of U.S. Paper in the</p> <p>25 1970s?</p>	<p>1 they'd put a layer on a skid, and a sheet of paper,</p> <p>2 another layer of cans, a sheet of paper, and they'd</p> <p>3 stack them like that. That's what I recall being</p> <p>4 used for the slip sheet.</p> <p>5 Q Do you remember what customer that was for?</p> <p>6 A National Can.</p> <p>7 Q Were there any other types of finished paperboard</p> <p>8 products that were manufactured at the mill?</p> <p>9 A No.</p> <p>10 Q Other than the cores?</p> <p>11 A Correct.</p> <p>12 Q And you said that was a different department?</p> <p>13 A Yes.</p> <p>14 Q Was that located in De Pere?</p> <p>15 A Yes.</p> <p>16 Q What was that department called?</p> <p>17 A Coring department.</p> <p>18 Q Do you recall who was in charge of that department?</p> <p>19 A Pete Lemons.</p> <p>20 Q Was there a machine that converted the core stock</p> <p>21 into the cores?</p> <p>22 A Yes.</p> <p>23 Q Did that machine have a name?</p> <p>24 A Core machine.</p> <p>25 Q Core machine. Do you recall any employees that</p>
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<p>1 A Nicolet and Bergstrom. That's it.</p> <p>2 Q And do you have any recollection about what those</p> <p>3 customers would have used the stock to make?</p> <p>4 A Nicolet, when I drove truck, I'd deliver them cores</p> <p>5 from a different department that we made, and they</p> <p>6 would use them to wrap their paper on. Same thing at</p> <p>7 Bergstrom. I believe it was called Glatfelter back</p> <p>8 then, I think. Maybe I'm wrong.</p> <p>9 Q Okay. You said also that the case liners or slip</p> <p>10 liners or sheets were made at the mill?</p> <p>11 A Yes.</p> <p>12 Q And just so I'm clear, were case liners and slip</p> <p>13 sheets, is that the same term -- different terms for</p> <p>14 the same thing?</p> <p>15 A Yes. Just would be the size of the sheet that was</p> <p>16 different in those two applications.</p> <p>17 Q And those were used as liner in packaging?</p> <p>18 A Yes.</p> <p>19 Q And I think you said they were used as liners of</p> <p>20 packaging of like tissue or paper products?</p> <p>21 A The case liner was, yes.</p> <p>22 Q Could slip sheets be used for lining something else?</p> <p>23 A The slip sheets that I recall we sold to a company, a</p> <p>24 can company, and they would manufacture cans, empty</p> <p>25 cans before they went to the canning companies. And</p>	<p>1 worked in the core department other than Pete Lemons?</p> <p>2 A No.</p> <p>3 Q Did anyone at U.S. Paper keep track of the customers</p> <p>4 who purchased products from the mill?</p> <p>5 A I don't know.</p> <p>6 Q You said you vaguely recalled there might have been</p> <p>7 like a sales department at the mill?</p> <p>8 A Yes.</p> <p>9 Q To the best of your knowledge would they have been</p> <p>10 the ones to keep track of that information?</p> <p>11 A I don't know.</p> <p>12 Q To the best of your knowledge were -- well, strike</p> <p>13 that.</p> <p>14 Was there a department or an</p> <p>15 individual at the mill that would have received</p> <p>16 customer complaints or concerns about the products</p> <p>17 that were purchased from the mill?</p> <p>18 A I'm sure someone did, but I don't know who it would</p> <p>19 be.</p> <p>20 Q Do you recall ever hearing about customer complaints</p> <p>21 or concerns about the products?</p> <p>22 A Yes.</p> <p>23 Q What do you remember hearing?</p> <p>24 A When I was a truck driver, that I didn't arrive at</p> <p>25 the right time.</p>

<p style="text-align: right;">Page 30</p> <p>1 Q Anything else?</p> <p>2 A No.</p> <p>3 Q Okay. Based on your time at the De Pere mill, are</p> <p>4 you generally aware of how the paperboard and the</p> <p>5 paperboard products were manufactured at the mill in</p> <p>6 the 1970s?</p> <p>7 A No.</p> <p>8 Q Did you have occasion to see the work that was going</p> <p>9 on at the mill --</p> <p>10 A No.</p> <p>11 Q -- in the 1970s?</p> <p>12 A Other than my department, no.</p> <p>13 Q So you never saw, for example, the pulper?</p> <p>14 A I saw it as I'd drive by it, but that's -- that was</p> <p>15 the most.</p> <p>16 Q Did you ever talk to people who worked in the pulper?</p> <p>17 A Sure.</p> <p>18 Q Did you ever talk about the pulping operations?</p> <p>19 A No.</p> <p>20 Q Did you ever have occasion to see the paper machine</p> <p>21 working?</p> <p>22 A Yes.</p> <p>23 Q Did you ever see what would happen as recycled paper</p> <p>24 would come into the mill?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 32</p> <p>1 A Yes, re-used.</p> <p>2 Q Was the broke ever just thrown away?</p> <p>3 A No.</p> <p>4 Q Was broke from other sources ever purchased for use</p> <p>5 at the mill?</p> <p>6 A No. Well, I don't understand that question. Let's</p> <p>7 come back to that.</p> <p>8 Q Okay. What don't you understand about that question?</p> <p>9 A I just caught -- told that the broke is our waste</p> <p>10 from our machines. Because you're starting up a</p> <p>11 machine, and you don't want to start having a good</p> <p>12 roll of paper right away, you got some waste. You</p> <p>13 take that back and you put it in the pulper room and</p> <p>14 they'd do it again. You said broke from another --</p> <p>15 another customer --</p> <p>16 Q Right, right.</p> <p>17 A No.</p> <p>18 Q Are you aware of the mill ever receiving those types</p> <p>19 of materials, so like the beginning part of a roll</p> <p>20 that may have been manufactured at a different mill</p> <p>21 as part of the raw materials that were coming into</p> <p>22 the mill?</p> <p>23 A I don't know.</p> <p>24 Q Okay. Do you know what virgin fiber is?</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 31</p> <p>1 Q Okay. I just want to ask you some questions about</p> <p>2 those areas next.</p> <p>3 A Okay.</p> <p>4 Q What types of raw materials were used at the mill to</p> <p>5 make paperboard?</p> <p>6 A Wastepaper.</p> <p>7 Q Anything else?</p> <p>8 A No.</p> <p>9 Q And again, just so I'm clear, when you use the term</p> <p>10 "wastepaper," what exactly are you referring to?</p> <p>11 A Just scrap cardboard, or might be office waste, or</p> <p>12 newspaper. I'll call them obsolete cores; once the</p> <p>13 core is done being used, we would recycle that.</p> <p>14 Q Okay, okay. I'm going to refer generally to all the</p> <p>15 raw materials that were used at the mill as recovered</p> <p>16 fiber.</p> <p>17 A Okay.</p> <p>18 Q Okay. Are you familiar with the term "broke"?</p> <p>19 A Yes.</p> <p>20 Q What is broke to your understanding?</p> <p>21 A Broke is the waste from our own machines. That's</p> <p>22 what I described it as.</p> <p>23 Q What was done with the broke from the mill?</p> <p>24 A It would go back into the pulper area.</p> <p>25 Q So it could be used as raw material?</p>	<p style="text-align: right;">Page 33</p> <p>1 Q What is it?</p> <p>2 A Scrap that's never been used before, basically, I'll</p> <p>3 call it.</p> <p>4 Q Okay. Did the mill ever use virgin fiber to make</p> <p>5 paperboard in the 1970s?</p> <p>6 A No.</p> <p>7 Q Why not?</p> <p>8 A We were 100 percent wastepaper.</p> <p>9 Q Okay. So the mill didn't use anything other than</p> <p>10 pulp made from recycled paper to make paperboard in</p> <p>11 the 1970s?</p> <p>12 A I don't understand that.</p> <p>13 Q In the 1970s --</p> <p>14 A Right.</p> <p>15 Q -- the mill only used pulp made from recycled paper?</p> <p>16 A Correct.</p> <p>17 Q Okay. Did you have any involvement in purchasing</p> <p>18 recovered fiber?</p> <p>19 A No.</p> <p>20 Q Was there a department that was in charge of</p> <p>21 purchasing recovered fiber?</p> <p>22 A I don't know.</p> <p>23 Q Do you recall who at the mill in the 1970s was</p> <p>24 involved with purchasing recovered fiber?</p> <p>25 A No, I do not.</p>

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1 Q Was Jim Patterson involved in that at all?

2 A **I don't know.**

3 Q Do you know where the mill purchased recovered fiber

4 from?

5 A **Some of the locations I do.**

6 Q Can you tell me what those were?

7 A **When I drove truck, Sheboygan Waste was one I recall**

8 **picking up scrap paper at. American Can. Fort**

9 **Howard. Shade Business Forms. Menasha Mill Supply**

10 **delivered paper to us. I believe back then it was**

11 **called Green Bay Recycling in Green Bay. It's now**

12 **currently Recycled Fibers in Green Bay. That's all.**

13 Q Okay. And it sounds like some of those sources that

14 you just identified were actual paper mills?

15 A **Yes.**

16 Q Fort Howard was a paper mill?

17 A **Yes.**

18 Q Was American Can considered a paper mill?

19 A **Yes.**

20 Q Shade Business Forms, was that considered a paper

21 mill?

22 A **No.**

23 Q What would you describe Shade Business Forms as?

24 Would that be a converter?

25 A **Yeah, a converter, correct.**

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1 Q And then you also identified Sheboygan Waste, Menasha

2 Mill Supply, and Green Bay Recycling?

3 A **Yes.**

4 Q Were those paper brokers?

5 A **Yes. Those are locations that sold us wastepaper, or**

6 **that I picked up wastepaper at, I should say.**

7 Q But it would be accurate to call them paper brokers?

8 A **I don't know.**

9 Q Okay. But the mill -- strike that. But those were

10 locations from which you purchased -- the mill

11 purchased recovered fiber?

12 A **Those are locations I actually went and got**

13 **wastepaper from, or locations that delivered them to**

14 **the mill when I was on the docks.**

15 Q Okay. When recovered fiber was delivered to the

16 mill --

17 A **Yes.**

18 Q -- how was it delivered?

19 A **By truck.**

20 Q Were they trucks that were owned by U.S. Paper or by

21 the suppliers?

22 A **Both.**

23 Q Were they ever delivered by train?

24 A **Yes.**

25 Q And for those deliveries that came by railcar, do you

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1 recall where they were from?

2 A **No.**

3 Q The recovered fiber that was delivered to the mill,

4 were they packaged in bales?

5 A **Most of them were, yes.**

6 Q Were they ever not packaged in bales?

7 A **There were some suppliers that did not have them**

8 **packaged in bales, yes.**

9 Q Do you recall what those suppliers were?

10 A **No. They were just local people around the area that**

11 **would bring us in their bag of newspapers or whatever**

12 **it could be.**

13 Q Did the mill have kind of an open recycling policy

14 where local people could bring in paper?

15 A **Everything that was brought in came across a scale**

16 **and was weighed, and then there was a yard in the**

17 **back. If it was loose, you could go dump it in the**

18 **yard. And if it was truckloads, you'd back into a**

19 **dock or an unloading area, it would be unloaded and**

20 **stored in the warehouse or outside in our yard.**

21 Q Okay. So did local businesses or offices bring in

22 their wastepaper to the mill?

23 A **I don't recall. Just local people, I recall,**

24 **bringing waste occasionally. We had -- you know,**

25 **there would be paper drives years ago and stuff like**

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1 **this, Boy Scouts, Girl Scouts, things of that nature.**

2 Q Okay. Do you recall mixed office paper coming into

3 the mill that way?

4 A **No.**

5 Q Going back to the paper mills that you identified

6 before.

7 A **Yes.**

8 Q Do you recall what kinds of recovered fiber were

9 purchased from those sources?

10 A **It was numerous things. I mean the one I can recall,**

11 **American Can was like the broken cases, the cardboard**

12 **cases that they may have, they'd just throw in there.**

13 **A lot of them were the -- the obsolete cores that**

14 **they had; once they used them so many times, they**

15 **were unusable again for the big rolls coming off the**

16 **parent machines. Those are primarily what we picked**

17 **up at the paper mills.**

18 Q When I asked you before about what types of raw

19 materials were used at the mill, you said one of the

20 types that were used was general mixed office paper?

21 A **Yes.**

22 Q Where did that type of raw material come from?

23 A **That would be, like when I said Menasha Mill Supply**

24 **would deliver it. Green Bay Recycling, we'd pick it**

25 **up. Shade Business Forms had some of that material.**